



JOHN T. FREY
CLERK OF CIRCUIT COURT

COMMONWEALTH OF VIRGINIA
Circuit Court of Fairfax County

4110 Chain Bridge Road
Fairfax, Virginia 22030-4048
703-246-2770



JANE M. DELIEE
CHIEF DEPUTY

Dear Circuit Court Patron:

My staff and I are dedicated to providing the best possible service to those using the Court. With this goal in mind, we developed the attached handout to help you in adoption proceedings. The handout consolidates into one place all of the information that my office can legally provide to the public. You are responsible for preparing all the necessary documents for your case.

This handout is **not** intended to replace competent legal advice. In fact, I strongly recommend that you hire an attorney to represent you in this matter. In addition, Virginia law prohibits my staff from providing legal advice. Therefore, please **DO NOT** ask the Clerk's Office personnel for legal advice.

It is my sincere hope that this information will help make your adoption process easier and less time consuming for you and your family.

Sincerely,

John T. Frey
Clerk, Fairfax Circuit Court

Attachment

GENERAL INFORMATION ON ADOPTIONS

This brochure is intended to provide you with procedural information concerning adoptions. Please be aware that Virginia law forbids the Clerks Office staff from providing legal advice. Accordingly, the Fairfax Circuit Court Clerks Office does not supply forms or other documents in connection with filing for an adoption. You are responsible for preparing the necessary documentation. In addition, Virginia only recognizes statutory adoptions, so the requirements of the Code of Virginia must be followed carefully. **Therefore, we strongly suggest that you hire an attorney to help you in your adoption proceeding.** The Clerks Office cannot recommend specific attorneys, but you may call:

The Virginia Lawyer's Referral Service
1-800-552-7977

or

The Fairfax Bar Association Lawyer Referral Service
703-246-3780

If you decide to represent yourself, you will be expected to follow the same procedures as an attorney.

The Fairfax Law Library, located on the third floor of the Judicial Center, is open to the public for legal research, Monday through Friday, between the hours of 8:00 a.m. and 4:30 p.m. The Law Library contains materials relating to adoptions in Virginia, including form books. You may want to begin your research with Virginia Code Section 63.2-1200, which is found in Volume 9A. When using the Code, always remember to ensure that you are reviewing the most current sections. Updated sections are located in the pocket supplements at the end of each Code book. (Please note that Virginia Code Title 63.1 was repealed effective October 1, 2002 and therefore you should refer to Virginia Code Title 63.2)

Types of Adoptions:

There are several types of adoptions recognized by the Commonwealth of Virginia. The following is a list of the different types of adoptions, each of which has different filing and procedural requirements. Please consult the Code to insure that your filing is complete and complies with all the requirements for the type of adoption that you are seeking.

The primary sections of the Code of Virginia are found at §63.2-1200 – 63.2-1248 but note that there are other requirements throughout the Virginia Code that might apply.

The Adoption chapter of the Virginia Code is set forth with an article providing general provisions applicable in all types of adoption and the specific provisions applicable to specific types of placements. You may find these sections in the Virginia Code as follows:

C	GENERAL PROVISIONS	§63.2-1200 – 63.2-1220
C	AGENCY ADOPTION	§63.2-1221 - 63.2-1229
C	PARENTAL PLACEMENT ADOPTION	§63.2-1230 - 63.2-1240
C	STEPPARENT ADOPTION	§63.2-1241 – 63.2-1242
C	ADULT ADOPTION	§63.2-1243-63.2-1244
C	FOREIGN ADOPTIONS/RE-ADOPTIONS	§63.2-1210
C	CERTIFICATE OF FOREIGN BIRTH	
	WITHOUT RE-ADOPTION	§63.2.1220

If the adoptee is being placed from another state or if the child is coming from another country and the adoption has not been final, you may be in violation of the law. As a result your adoption may be effected if you do not follow the Interstate Compact on the Placement of the Children. See Virginia Code §63.2-1000 and §§ 63.2-1100 – 63.2-1105. The telephone number for the appropriate office in Virginia's Department of Social Services is (804) 692-1274.

Required Documents:

Although the filing requirements vary depending upon the type of adoption sought, the following documents are always required.

1. A **signed**, notarized Petition plus two (2) copies. (Additional copies are required if service of Process or Publication is necessary; or if you request a date-stamped copy of the documents you file.)
2. A **signed** proposed Final Order to submit for a Judge's signature. Copies of Orders are **not** required.
3. A **completed** VS-21 form. This is a statistical "Report of Adoption" form that is required for all adoptions. It is available from the Clerks Office. (If this is an Agency adoption, the Agency will forward this form to the Court.)
4. A **completed** VS-6 form and a check in the amount of \$10.00 made payable to Vital Records. This form is ***required if a new Birth Certificate is requested for persons born in Virginia or a foreign country.*** In addition with the VS-6 form a copy of your picture I.D. or a copy of two secondary forms of identification in accordance with the Office of Vital Records Primary Documents or Secondary Documents list must be included with your application. A list of the primary and secondary documents may be accessed through the internet at:
www.vdh.state.va.us/vitalrec/primary.asp

Upon entry of the final order of adoption, the VS6 application, copies of the identification and fee will be forwarded to Vital Records.

5. Any evidence, exhibits or documentation in support of the Petition, plus two (2) copies. (NOTE: additional copies must be submitted if Service or Publication is required; or if you would like date-stamped copies.)
6. A self-addressed, stamped envelope for **each** set of documents you would like to have returned to you by the Clerk's Office (including date-stamped copies of filings and/or certified copies of Orders).

Preparing Your Petition:

Every petition will vary in content, depending upon the type of adoption sought; however, all Petitions must include the following information:

- C Either the child's birth name **or** the legal name by which the child will be known after adoption **and** birth certificate number (if the birth name is not used, the petition must include a request to change the child's name). (SEE SAMPLE PAGE.)
- C The signatures of both the husband and wife, if you are married.
- C A statement of residence.
- C The child's date and place of birth.
- C The date the child began living with the petitioners.
- C Full disclosure of the circumstances under which the child came to live with you. (§63.2-1201)
- C A statement that you are financially able to support the child; are in suitable mental and physical health to care for the child; and are morally suitable to raise the child. (§63.2-1209 -63.2-1210)
- C A description of any supporting documents that are attached to the Petition, if applicable with each exhibit lettered or numbered.
- C A prayer (request) for the Court's permission to adopt the child (and to change the child's name, if applicable).

Remember this list only includes the information necessary in all adoptions. Additional information may be required for certain types of adoptions. Please consult the Virginia Code carefully to ensure you include all the necessary information in your Petition before you file.

**IF YOU CHOOSE TO REPRESENT YOURSELF, PLEASE
REMEMBER:**

- C The Clerk/Court **cannot** advise or represent you.
- C Your documents must be typed, double-spaced on 8 1/2" x 11" white paper.
- C All documents should include your adoption case number.
- C If you send any documents to the Court, mail them to:

Clerk of the Circuit Court
The Judicial Center
4110 Chain Bridge Road
Third Floor
Fairfax, VA 22030
Attention: Adoption Clerk

- C All hand carried documents should be delivered to the Clerk's Office 3rd floor of the Judicial Center at one of the following counters:

Initial Filing of the Adoption Petition: Civil Intake counter
All others filings: Court Services counter

- C To check the status of your case, please call Civil Case Information at: 703-691-7320, then press 3, 1, 0. Please have your case number available for reference.

PARENTAL PLACEMENT:

If a child has been placed by a birth parent directly to you, then your case probably should start in an appropriate Juvenile and Domestic Relations Court for a determination of birth parent rights and other matters. This applies even to close relative cases except in cases of certain close relatives where the adoptee has lived in the home for a period of three years.

FOREIGN ADOPTIONS AND ESTABLISHING CERTIFICATES OF FOREIGN BIRTH:

There are specific time requirements concerning when you file your petition and have your supervising agency visit you. See Virginia Code §63.2-1210. Some countries issue guardianship (i.e. Korea), while other countries issue final decrees of adoption (i.e. Russia, China, Guatemala). Many people readopt despite having a final decree from a foreign country so that the adoption is universally recognized throughout Virginia and the United States pursuant to the Full Faith and Credit Clause of the U. S. Constitution. Re-adoption allows you to obtain a Virginia Certificate of Foreign Birth.

Alternatively, you may obtain a Certificate of Foreign Birth in some cases without pursuing a re-adoption. While this procedure may not provide the protection of a re-adoption, it may allow your child to more quickly obtain a Virginia Certificate of Foreign Birth and change of name. The requirements for this procedure are in Virginia Code 63.2-1220. The Court maintains these files with adoption cases to provide confidentiality.

Establishing Certificate of Foreign Birth Filing fee:\$66.00

Required Documents:

A notarized Petition requesting the Court to grant a “Report of Adoption” - plus 2 copies

Immediate Relative Immigrant Visa (IR-3)

A completed Report of Adoption (VS-21 form)

Completed post-adoption reports

The notarized petition or affidavit must state that any outstanding post-adoption requirements shall be met as required by the foreign country. The affidavit shall also include the name by which the child is to be known.

A proposed final Order to submit for a Judge’s signature.

Guidelines and Requirements for filing of Adoption or Readoption:

1. Adoption proceedings are filed at the Civil Intake Counter of the Clerks Office, located on the third floor of the Judicial Center, 4110 Chain Bridge Road, Fairfax, Virginia.
2. Either you or the placing agency **must** be a resident of Fairfax County. (§63.2-1201)
3. All filings must be signed.
4. All Petitions and Orders must be typed, double-spaced on 8 1/2" x 11" white paper and should have the heading:

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY
5. All filings should include your current address and telephone number.
6. All Circuit Court fees must be paid by: cash, certified check or money order. Personal checks are **not** accepted.

Code of Virginia Reference: §63.2-1200 – 63.2-1248

Fees:

Filing fee:	\$31.00
Copies from the case file:	\$.50 per page
Certifications:	\$ 2.00 per document
Service of Process:	\$12.00 per party for service by the Sheriff. \$ 3.00 per party for service by Certified Mail. \$ 4.95 per party for service by Registered Mail

Certified checks or money orders should be payable to:

Clerk of the Circuit Court

PUBLICATION

If Publication is required, then an Affidavit for Service by Publication and Order of Publication must be submitted. The Order must be published for four consecutive weeks.

At the time of filing, submit to the Circuit Court, the original affidavit and the original Order of Publication. A sample affidavit and Order of publication is included in this handout. In addition you must submit a completed certified or registered mailing form and an envelope addressed to the last known address of the person you are serving through publication.

Petitioner must pay for the Order to be published in a local newspaper. The Court currently utilizes the Fairfax Journal and the Washington Times.

\$25.00 - Fairfax Journal

\$25.00 - Washington Times

You may have the Order published in any other newspaper with local circulation that have met qualifications in accordance with §8.01-324 of the Code of Virginia.

If you select a paid newspaper other than the Fairfax Journal or Washington Times, you must make your own publication arrangements.

If you request the Fairfax Journal or Washington Times, you must submit a check payable to the specific Newspaper.

ADDITIONAL INFORMATION

- C When filing your case, make sure that you receive and retain your case number. This number will begin with the letter "A" and should be referenced when calling the Court. The phone number you should call if you need information on your case is: 703-691-7320, then press 3, 1, 0.
- C When requesting the file, you must have the case number since this is the only way for the Court to access the file. We do **NOT** have the ability to access an adoption case by name.
- C Adoption files are sealed due to the confidentiality of the proceedings. Pursuant to §63.2-1245 "adoption files shall be made available to attorney of record, social service officials, court officials, and to such other persons as the circuit court shall direct in specific cases by order of the circuit court entered in accordance with §63.2-1246".
- C If you file additional paperwork, other than Orders, later in the case, remember you will need to include an original and two (2) copies. If Service or Publication is required, you will need to provide additional copies (one for each Service). The case number should always be included on any subsequent filings.
- C It is your responsibility to advise the Clerks Office when all paperwork is completed and an Order is to be sent to a Judge for review and signature. You may contact the Clerks Office at 703-691-7320, then press 3, 1, 0 to request that your Order be forwarded to a Judge.

ADDITIONAL INFORMATION CONTINUED:

- C You are encouraged to keep a "date-stamped" copy of all paperwork filed with the Clerks Office. To receive a date-stamped copy of a filing, please include your request in the cover letter accompanying the original document. You must also provide the Clerks Office with a copy of the document to be returned to you, as well as a self-addressed stamped envelope.
- C Under Virginia law, you are entitled to one (1) free certified copy of the FINAL ORDER. You are required to pay for all other copies. If you would like the Final Order mailed, you must provide the Clerks Office with a self-addressed stamped envelope.
- C After six (6) months from the entry of the final order, if no appeal is filed with the Court of Appeals challenging the Final Order, the validity of the adoption cannot be attacked later in accordance with §63.2-1216.

TO RECEIVE A COPY OF A BIRTH CERTIFICATE

For persons born in Virginia or persons born in a foreign country and readopted in a Virginia Court:

- ❑ Complete an application for Certification of a Vital Record (VS-6)
 - ❑ A fee in the amount of \$10.00 for each birth certificate requested payable to: Division of Vital Records or Vital Records.
 - ❑ A copy of your picture I.D. or a copy of two secondary forms of identification in accordance with the Office of Vital Records Primary Documents or Secondary Documents list must be included with your application. A list of the primary and secondary documents may be accessed through the internet at:
www.vdh.state.va.us/vitalrec/primary.asp
6. The VS-6 application, copy of your identification and fee payable to Division of Vital Records may be filed with the Petition for Adoption. Upon entry of the final order of adoption, the VS-6 application and fee will be forwarded to Vital Records.

For persons born in the United States but outside the Commonwealth of Virginia:

- ❑ To receive a certified birth certificate you would need to contact the Vital Records of the specific state the individual was born.
- ❑ A listing of all Vital Records in the United States may be accessed through the internet at: <http://www.vdh.state.va.us/vitalrec/across.asp>.
- ❑ Let the other state know this is an adoption since there may be special procedures and fees applicable.

A new birth certificate is created replacing the original. Please be patient since it may take six (6) months or longer in Virginia and other states to issue the new birth certificate.

TYPES OF ORDERS

ORDER OF REFERENCE

§63.2-1208

The Order of Reference refers the case to an adoption agency and notifies the agency to begin an investigative home study. In Stepparent cases this is usually the Fairfax County Department of Family Services. In other cases it is usually the Virginia agency that placed the child or supervised the case. The agency has 90 days to complete its report and return it to the Court. The Order of Reference must name the agency to which the case is being referred, as well as the agencies location and additionally must include the Commissioner of Social Services. Often, this is the first Order signed in the proceeding.

INTERLOCUTORY ORDER

§63.2-1209 – 63.2-1211

The Interlocutory Order is a temporary adoption order, which sets forth that the adoptive parents are the parents of their child and are subject to a probationary period. The Interlocutory Order directs the supervising agency to conduct further visits with you and then report back to the Court.

Although not every adoption requires an Interlocutory Order, generally this is the second Order to be signed. In cases of a direct placement adoption this is the first Order in the adoption proceeding.

FINAL ORDER

§63.2-1213

The Final Order terminates the rights (and responsibilities/obligations) of the birth or previous adoptive parents and awards the adoption to the petitioning adoptive parents. The Final Order should not be submitted until 21 days **after** the Court has received the Report of Investigation, if applicable. This is the last Order to be signed. In some cases, it may be the only Order.

Please consult the Virginia Code to determine which Order(s) are appropriate for your particular case.

REFERENCE MATERIALS

The following reference materials, which are available in the Law Library, may be useful to you when researching your case. When doing research, remember that the law may have changed since the resource you are using was published; so always check the Code and the pocket parts for amendments. Also, please bear in mind that the librarians may not offer you any legal advice.

Code of Virginia 1950, as amended. Sections 63.2-1200 through 63.2-1248, Volume 9A.

Adoption Procedures and Forms: A Guide for Virginia Lawyers, Norfolk, VA: Virginia Law Foundation, 1998.

Brinig, Margaret F. ***Virginia Domestic Relations Handbook***, 3d ed. Charlottesville: Michie, 1996.

Fairfax County Bar Association Circuit Court Manual (2002 ed.) Fairfax: Fairfax County Bar Association, 2004.

Gouldman, W. Clyde and Barbara Wright Goshorn. ***Virginia Forms***, Vol. 1, Charlottesville: Michie, 1995.

Swisher, Peter N., Lawrence D Diehl, and James R. Cottrell. ***Virginia Family Law***, 2d ed. Norcross, GA: The Harrison Company Publishers, 1997.

Virginia Practice Manual, Domestic Relations Section, Virginia Poverty Law Center, 1994.

SAMPLE

If the child will be keeping his or her birth name after adoption:

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In the matter of the adoption of a child)
known as _____)
(Child's Birth Name)) Adoption Number _____
by _____)
(Petitioner's Name(s)))
Birth Certificate Registration Number _____)
Registered in the State of _____)

PETITION

If the child will be known by a new name after adoption:

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In the matter of the adoption of a child to be)
known as _____)
(Child's Adopted Name)) Adoption Number

by _____)
(Petitioner's Name(s)))
Birth Certificate Registration Number _____)
Registered in the State of _____)

PETITION

VIRGINIA
IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: ADOPTION OF MINOR CHILD _____ : ADOPTION NO. _____

AFFIDAVIT FOR SERVICE BY PUBLICATION

Comes now _____, Petitioner herein, seeking service on
_____, the natural parent by ORDER OF PUBLICATION, and who under
oath deposes and states under oath that the Natural Parent in this cause,

9 Is a non-resident individual, other than a non-resident individual fiduciary who has appointed a
statutory agent;

OR

9 Cannot be found, and that diligence has been used without effect to ascertain the location of the
party to be served;

OR

9 Cannot be served with court process, and that a return has been filed by the Sheriff which
shows that the process has been in his or her hands for twenty-one (21) days and the Sheriff has
been unable to make service;

OR

9 OTHER: _____

and the last known mailing address of Natural Father/Mother is as follows:

Name _____
Address _____

OTHER INFORMATION: _____

Signature of Petitioner

Counsel for Petitioner

TO BE COMPLETED BY A NOTARY PUBLIC/ OR DEPUTY CLERK

In the Commonwealth/State of:

In the County of:

Subscribed and sworn to before me this _____ day of _____, _____.

_____ My Commission Expires:

Notary Public/Deputy Clerk

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

IN RE: ADOPTION OF MINOR CHILD

ADOPTION NO. _____

ORDER OF PUBLICATION

The reason for this cause is to obtain an adoption

An affidavit having been made and filed showing that the Natural Parent in the above-entitled cause is

9

Is a non-resident individual, other than a non-resident individual fiduciary who has appointed a statutory agent;

OR

9

Cannot be found, and that diligence has been used without effect to ascertain the location of the party to be served;

OR

9

Cannot be served with court process, and that a return has been filed by the Sheriff which shows that the process has been in his or her hands for twenty-one (21) days and the Sheriff has been unable to make service;

OR

9

OTHER:

and last known mailing address of Natural Father/Mother is as follows:

Name _____

Address _____

TO BE COMPLETED BY CLERK'S OFFICE

Upon consideration, this Order of Publication is granted, and It is ORDERED that the above named Natural Parent shall appear here on or before _____ day of _____, _____ after proper publication of this Order, to protect his/her interest in this cause.

Entered: _____

TESTE: JOHN T. FREY, CLERK

BY: _____

DEPUTY CLERK

Signature of Petitioner or Counsel for Petitioner

Address:

Phone Number: